




# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,432	12/07/2001	Harro Krispin	DTW-162	2809
7590 11/19/2003				
LERNER AND GREENBERG, P.A. POST OFFICE BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER ESTREMSKY, GARY WAYNE				
ART UNIT		PAPER NUMBER		
3677				

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>10/006,432</b>	Applicant(s) <b>Krispin</b>	
	Examiner <b>Estremsky</b>	Art Unit <b>3677</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Oct 31, 2003
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 23 is/are rejected.
- 7) ☒ Claim(s) 3-22 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,934,115 to Bernier.

Bernier '115 teaches Applicant's claim limitations including : a "first housing part" - 31 as shown in Fig 5 for example, "at least a second housing part" - 52, a "locking element" - including 21,24 as shown in Fig 1 for example, a "blocking element" - including 13,14.

Functional recitation of intended use in the preamble does not define any structure of the claimed invention that can be relied upon to patentably distinguish from the prior art. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). See MPEP 2114. It has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the

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structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,934,115 to Bernier.

Although Bernier '115 discloses the enclosure to be for an electrical distribution system housing but not specifically a "telecommunications system housing", it would have been an obvious design choice for one of ordinary skill in the art at the time of the invention to provide the latch device of the reference on a housing to be used for telecommunications equipment. The examiner takes Official Notice that it is well known in the art of latches to provide latch devices on telecommunications system housings. It is further noted that no actual telecommunications equipment is claimed as part of the invention whereby present limitation amounts to little more than intended use. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the latch or housing.

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***Allowable Subject Matter***

5. Claims 3-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Pat. No. 3,371,511 to Atkinson.
- b. U.S. Pat. No. 4,676,081 to Craig.
- c. U.S. Pat. No. 5,878,608 to Alyanakian.
- d. U.S. Pat. No. 5,897,147 to Alyanakian.

8. Submission of any response by facsimile transmission is encouraged. Group 3677's relevant facsimile number is :

**(703) 872-9306 - for all formal communications to be entered into the Application.**

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Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) \_\_\_\_ - \_\_\_\_ ) on \_\_\_\_\_

(Date)

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is (703) 308 - 0494. The examiner can normally be reached on M - Th from 730 am to 600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann, can be reached on (703) 306-4115.

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10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

- Technology Center 3600 Customer Service is available at 703-308-1113.

- General Customer Service numbers are at 800-786-9199 or 703-308-9000.

GWE

November 12, 2003

A handwritten signature in black ink, appearing to read 'GWE', with a stylized flourish extending from the end.

**GARY ESTREMSKY  
PRIMARY EXAMINER**